

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 643 OF 2023

Navnath Yashvant Jagdale

...Appellant

Versus

State Of Maharashtra And Anr.

...Respondents

....

Mr. Prabhakar M. Jadhav Advocate for Appellant.

Ms.Prachi Tatake Advocate for Respondent No.2

Ms. P. N. Dabholkar, APP for the Respondent – State.

Mr. Sandeep Shinde, Karmala Police Station is present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 19th JULY, 2023.

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P.C.:-

1. This is an Appeal under Section 14-A of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act. Appellant is aggrieved by order dated 2nd June 2023 passed by learned Special Judge, Barshi rejecting the application for anticipatory bail preferred by the Appellant.
2. Appellant is apprehending arrest in connection with C.R. No.388 of 2023 registered with Karmala Police Station, Solapur on 18th May 2023 for offences punishable under Sections 354(D), 509, 506 of Indian Penal Code and Sections 3(1)(w)(ii), 3(1)(r), 3(1)(s), 3(2)(va) of the SC and ST (Prevention of Atrocities) Act.
3. Case of the prosecution is that, the accused has been constantly looking at her by sitting near the grocery shop situated in front of her

house. The accused used to make gestures at her. These acts were committed since last two years. The accused was making signal for having friendship with him. About two months ago, the accused had approached her when she was at public water tap and tried to catch her hand. On 18th May 2023, the husband of the complainant questioned accused about his conduct and at that time, the accused abused the husband of complainant on the basis of his caste.

4. The Appellant preferred an application for anticipatory bail before the Court of Sessions. Vide order dated 25th May 2023 interim relief was granted to the Appellant on condition that, he shall report Investigating Officer. Subsequently, by order dated 2nd June 2023, the application was rejected.

5. Learned Advocate for the Appellant submitted that, the FIR has been lodged belatedly. According to the version of complainant, she is being harassed by appellant since last two years. There are no previous complaints. There is no independent witness to corroborate the version of complainant with regards to the abuses on caste. The appellant has been recently appointed as Sarpanch of the village and the complaint was lodged at the instance of his rivals.

6. Learned APP submitted that, investigation is in progress. The FIR refers to the abuses on caste and other acts amounting to stalking. Statements of witnesses were recorded. Prima facie offences are made out

against the appellant.

7. Learned Advocate for Respondent No.2 submitted that, contents of the FIR supports the offences which are registered against the appellant. The residents of the village are under the influence of appellant being the Sarpanch of village. In view of bar under Section 18 of the Atrocities Act, the appellant is not entitled for anticipatory bail.

8. The grievance of the complainant is that, since last two years the appellant has been harassing her. Undisputedly, there are no previous complaints. The alleged incident of attempting to catch the hand of appellant had occurred two months ago. The complainant had alleged that, her house is situated in front of the grocery shop and the appellant was making gestures at her from that place. During the investigation, statement of owner of said shop is recorded. Although, he has stated that the appellant visited his shop, his statement is silent with regards to the alleged acts attributed to appellant by complainant. It is also alleged that the incident of abuses on caste had occurred while the appellant was near the grocery shop. However, the statement of owner of shop does not support the complainant. There is no other witnesses to corroborate the alleged casteist remarks made by appellant. Statement of relative of the accused/appellant is recorded, who has stated that, the complainant has never made grievance with them about the alleged acts committed by accused. The incident of abuses on caste has not occurred within public

view. Considering these circumstances, bar under Section 18 of the Atrocities Act would not be an impediment to grant relief to the appellant.

ORDER

- (i) Criminal Appeal No. 643 of 2023 is allowed.
- (ii) Order dated 2nd June 2023 passed by learned Special Judge, Barshi rejecting the application for anticipatory bail preferred by appellant is set aside.
- (iii) In the event of arrest of the appellant in connection with C.R. No.388 of 2023 registered with Karmala Police Station, Solapur, he be released on bail on executing PR bond in the sum of Rs. 20,000/- with one or more sureties in the like amount;
- (iv) The appellant shall report Investigating Officer on 26th 27th and 28th July 2023 between 11:00 am to 01:00 pm. and thereafter as and when called for.
- (v) The appellant shall not tamper with the evidence and shall not approach the complainant and any of the family members.
- (vi) The appellant shall not visit the vicinity of the residence of complainant and shall not visit the grocery shop, where the alleged incident had occurred.
- (vii) Appeal stands disposed off.

(PRAKASH D. NAIK, J.)